

REMARKS

This paper is responsive to an Office Action dated September 20, 2004. Prior to this amendment claims 1-26 were pending. After canceling claims 7 and 21, claims 1-6, 8-20, and 22-26 remain pending.

In Section 3 of the Office Action claims 7 and 21 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Office Action objects to the claim element "building a GUI within approximately 0.5 seconds." In response, claims 7 and 21 have been canceled.

In Section 5 of the Office Action, claims 1 and 16 have been rejected under 35 U.S.C. 102(b) as anticipated by the Applicant's admitted prior art (AAPA). With respect to claims 1 and 16, the Office Action states that the AAPA describes a step of "at a querying device, building a GUI representing the availability of known network-connected devices; and, querying the known network-connected devices to determine their availability." This rejection is traversed as follows.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Beginning at page 1, ln. 25, the Applicant's specification states that conventional systems "build the GUI to validate device availability only *after* (emphasis added) it has received replies from all the components (network devices) whose existence the application wants to query." This conventional process is described in more detail in the

explanation of Fig. 1, where it states that Step 12 sends queries to network-connected devices, and Step 16 waits for all the queries (threads) to return with an answer. Only after these 2 steps, is the GUI built in Step 18 (page 2, ln. 21. through page 3, ln. 4).

Unlike the AAPA, the claimed invention GUI is built *before* queries are sent out to the network-connected devices. In summary, the AAPA builds a GUI after the queries are returned, and the invention of claims 1 and 15 builds the GUI before the queries are sent. Since the AAPA does not describe all the limitations of claims 1 and 15, it cannot anticipate. Claim 16, dependent from claim 15, enjoys the same distinctions from the prior art, and the Applicant respectfully requests that the rejection be removed.

In Section 9 of the Office Action claims 2-26 have been rejected under 35 U.S.C. 103(a) as unpatentable with respect to the AAPA, in view of Knodt et al. ("Knodt"; US 5,987,535). With respect to claim 2, the Office Action states that the AAPA fails to teach a method of providing immediate status, but that Knodt provides immediate status indicators, and that it would have been obvious to combine the teachings of the AAPA and Knodt "because Knodt et al's use of immediate status of a user interface in AAPA's method would provide a user the ability to view the status of devices immediately by mimicking machine activities as they occur." With respect to claims 13 and 15, the Office Action states that the AAPA describes all the claim elements. This rejection is traversed as follows.

An invention is unpatentable if the differences between it and the prior art would have been obvious at the time of the invention. As

stated in MPEP § 2143; there are three requirements to establish a *prima facie* case of obviousness.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck* 947 F.2d 488, 20 USPQ2d, 1438 (Fed. Cir. 1991).

As noted above, the AAPA describes a system that does not attempt to build a device status GUI until device queries are sent out, and the query responses received. Knodt states that the object of his invention is to mimic machine activity as it occurs and to provide timing information (col. 2, ln. 10-13). In Fig. 1, Knodt describes a system that includes connected devices such as a display terminal, fax, file server, work station, database system, mail system, and others (col. 3, ln. 7-18). Knodt states that the system could be used as a tutorial, because it shows what is currently happening, what is going to happen, and job access points (col. 3, ln. 62 through col. 4, ln. 3). However, Knodt never discusses how network devices are depicted on the screen before the system determines if the devices are actually accessible. Neither does Knodt describe a screen updating process in the context of network discovery.

With respect to the *first prima facie* requirement needed to support a case of obviousness, there is no evidence that Knodt's system is any different than the AAPA. Since Knodt does not teach any details concerning the relationship between building a GUI and how networked

devices are queried, it is difficult to image that that a person skilled in the art would be motivated to combine references in such a way as to suggest the claimed invention. That is, Knodt does not give a skilled artisan guidance in how the AAPA method of building a GUI can be modified.

Alternately considered, there is no support in the references for the *prima facie* argument that the immediate status of a device can be determined by mimicking machine activities as they occur. As noted in the Background Section of the Applicant's specification (page 2, ln. 8-20), it takes as long as 30 seconds for a time-out to occur, if a device does not respond to a query. Thus, the ability to mimic machine activities as they occur does not necessarily result in an immediate status update. Due to the time-out problem, the ability to mimic machine activity can result in status updates that are delayed as long as 30 seconds. Therefore, it might be said that the AAPA and Knodt methodologies, that mimic machine activities as they occur, teach away from the claimed invention, which is further proof that the claimed invention cannot be considered obvious in light of the prior art.

The affidavit of Mr. Sridhar Dathathraya, enclosed as Attachment A, is provided to support the position that the combination of references does not make the claimed invention obvious. In his affidavit Mr. Dathathraya notes that neither the AAPA nor Knodt give any suggestion that a network discovery GUI be build before sending (and receiving) the device queries.

With respect to the second *prima facie* requirement, even if the references were combined, the combination does not suggest an expectation of success in the claimed invention. The combination of references does not provide an expectation that the AAPA can be modified

into a method that is *not* dependent upon knowing the accessibility status of networked devices, before building the GUI.

With respect to the third requirement to support a *prima facie* case of obviousness, the combination of references does not teach all the limitations of claims 1, 13, and 15. Claims 1, 13, and 15 recite the limitations of a network discovery method that builds the GUI before sending and receiving device availability queries. The AAPA only describes building a GUI after all the device query responses are received. Knodt merely describes a screen that is updated in response the device query/responses. Further, Knodt does not discuss a network discovery process. Thus, the combination of the AAPA and Knodt does not teach the limitation of claims 1, 13, and 15. Claims 2-12, dependent from claim 1, claim 14, dependent from claim 13, and claims 16-26, dependent from claim 15, enjoy the same distinctions. Since the prior art references neither explicitly disclose nor suggest the claimed invention, the Applicant requests that the rejections be removed.

In Section 26 of the Office Action, claim 8 has been rejected under U.S.C. 103(a) as unpatentable over the AAPA and Knodt, and further in view of Bahlmann (US 6,393,478). The Office Action states that the AAPA and Knodt fail to teach a Sockets connect function, ping function, or NSLookup function. The Office Action states that Bahlmann shows the NSLookup function and that it would have been obvious to combine references "because Knodt's et al's use of building a GUI in real-time and Bahlmann's use of NSLookup function is AAPA's system would allow a user to view instant status information regarding monitored devices by using NSLookup to find the IP address corresponding to the

monitored devices and devices to locate the monitoring device." This rejection is traversed as follows.

Bahlmann describes a method for troubleshooting network-connected devices identifiable by a medium access control address (MAC). A browser is used to find a particular device based upon its MAC, and display device specific data. Update functions are provided to change the data in the internal database, and utility functions are provided to aid in troubleshooting, maintenance, and verification (col. 2, ln. 26-40).

However, Bahlmann only provides the conventional method of updating a browser web page in response to device query/responses, and he does not specifically address network discovery. As with Knodt, Bahlmann teaches away from the claimed invention's method of building a GUI before device queries are made, and before device responses are received. As with the AAPA and Knodt, Bahlmann is susceptible to the time-out problem that occurs when a device does not respond, which can delay a screen update for as long as 30 seconds.

Therefore, the combination of the AAPA and Knodt, with Bahlmann still fails to provide any guidance as to how the GUI building method of the AAPA can be modified. Thus, with respect to the base claim (claim 1), from which claim 8 depends, the first *prima facie* requirement to support a case of obviousness has not been met.

With respect to the second *prima facie* requirement, even if the references were combined, the combination does not suggest an expectation of success in the claimed invention. Neither Bahlmann nor Knodt provides an expectation that the AAPA GUI building method problem can be modified into one that is not dependent upon the network devices responding to a query.

With respect to the third requirement to support a *prima facie* case of obviousness, the combination of references does not teach all the limitations of claim 1. Claim 1 recites the limitation of building the GUI before sending and receiving device availability queries. The AAPA only describes building a GUI after all the device query responses are received. Both Knodt and Bahlmann describe screen/browser updates that only occur in response to (after) a device query/response. Thus, the combination of the AAPA, Knodt, and Bahlmann does not teach the limitations of claim 1. Claim 8, dependent from claim 1, enjoys the same distinctions. Since the prior art references neither explicitly disclose nor suggest the claimed invention, the Applicant requests that the rejections be removed.

It is believed that the application is in condition for allowance and reconsideration is earnestly solicited.

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Respectfully submitted,


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